

48A C.J.S. Judges § 283

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

2. Interest and Relationship

a. Interest

(3) Particular Interests

§ 283. Interest in, or dealings with, bank

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In order for a judge to be disqualified from acting in a litigation involving a bank, the judge's interest in the case must be of a disqualifying nature.

In order for a judge to be disqualified from acting in a litigation involving a bank, the judge's interest in the case must be of a disqualifying nature.¹ A judge may be disqualified from acting in a litigation affecting a bank by reason of being interested in the bank as a depositor, stockholder, or otherwise² although the amount of the judge's deposit is small.³ Thus, a judge who is a depositor in an insolvent bank is disqualified to act in a litigation against a party charged with misappropriating funds of the bank,⁴ in a liquidator's suit for the recovery of moneys allegedly due the bank,⁵ and

in a proceeding to confirm a comptroller's action in holding the bank insolvent and appointing a receiver.⁶ On the other hand, the fact that a judge is a customer of,⁷ a depositor in,⁸ or a debtor of⁹ a bank does not disqualify the judge from acting in all proceedings affecting the bank.

While a judge ordinarily is not disqualified from sitting in a case merely because a bank of which the judge is a stockholder is a creditor of one of the parties,¹⁰ the interest of a judge in condemnation proceedings as a stockholder in a bank holding a deed of trust securing an overdue note on the property sought to be condemned has been held to disqualify the judge from sitting in the proceedings.¹¹

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Footnotes

- 1 U.S.—*U.S. v. Sellers*, 566 F.2d 884, 2 Fed. R. Evid. Serv. 840 (4th Cir. 1977).

Ga.—*Adams v. McGehee*, 211 Ga. 498, 86 S.E.2d 525 (1955).

Limited relationship with bank employees
The chancellor did not abuse his discretion in declining to recuse himself from hearing a case in which a bank was a party although he had limited relationships with certain employees of the bank, some of whom were witnesses; the chancellor did not do his banking at the bank, had no personal or social relationship with the bank's representatives, and stood to gain nothing from the bank winning the case.

Tenn.—*First Peoples Bank of Tennessee v. Hill*, 340 S.W.3d 398 (Tenn. Ct. App. 2010).
- 2 Fla.—*State v. Chillingworth*, 107 Fla. 747, 143 So. 294 (1932).

Ga.—*Gaskins v. Gaskins*, 181 Ga. 124, 181 S.E. 850 (1935).
- 3 Fla.—*State v. Rowe*, 100 Fla. 1382, 131 So. 331 (1930).
- 4 Fla.—*State v. Barker*, 98 Fla. 273, 123 So. 738 (1929).
- 5 Fla.—*Bradford County Bank v. Adkins*, 100 Fla. 1697, 132 So. 842 (1931).
- 6 Fla.—*State v. Chillingworth*, 95 Fla. 699, 116 So. 633 (1928).
- 7 Ill.—*People v. Jones*, 206 Ill. App. 3d 477, 151 Ill. Dec. 489, 564 N.E.2d 944 (2d Dist. 1990).
- 8 Cal.—*Central Pac. Ry. Co. v. Superior Court in and for Siskiyou County*, 211 Cal. 706, 296 P. 883 (1931).

Mo.—*Garton v. State*, 454 S.W.2d 522 (Mo. 1970).
- 9 La.—*Guidry v. First Nat. Bank of Commerce*, 755 So. 2d 1033 (La. Ct. App. 4th Cir. 2000), writ denied, 762 So. 2d 1106 (La. 2000).

Utah—*Madsen v. Prudential Federal Sav. and Loan Ass'n*, 767 P.2d 538 (Utah 1988).
- 10 Mich.—*In re Farber*, 260 Mich. 652, 245 N.W. 793 (1932).

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Cal.—City of Vallejo v. Superior Court of Napa County, 199 Cal. 408, 249 P. 1084, 48 A.L.R. 610 (1926).

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